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HUMAN RIGHTS COMMITTEE

Sixty-first session

SUMMARY RECORD OF THE 1619th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 October 1997, at 3 p.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Senegal (continued)

ORGANIZATIONAL AND OTHER MATTERS (continued)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Senegal (continued) (CCPR/C/103/Add.1; HRI/CORE/1/Add.51/Rev.1; CCPR/C/61/Q/SEN/3)

1. At the invitation of the Chairperson, the members of the delegation of Senegal took places at the Committee table.

2. The CHAIRPERSON invited members of the delegation of Senegal to answer additional questions which had been raised in connection with part I of the list of issues (CCPR/C/61/Q/SEN/3).

3. Mr. Amadou DIOP (Senegal) said that, as he had explained at the previous meeting, no state of emergency existed in Casamance either de jure or de facto. The last state of emergency to be proclaimed in Senegal dated back to the post-election period of 1988. The movement of persons and goods was guaranteed and no exceptional measures affecting the population were in force. Life was continuing normally and even tourism was expected to pick up soon in the region. As to displaced persons, it was true that some movement of civilian populations had taken place in frontier areas, the Government of Guinea-Bissau having decided, in consultation with UNHCR, to displace certain populations living close to the frontier to protect of their own safety. His Government had fully cooperated in those measures with a view to enabling the people concerned to lead their lives in peaceful conditions.

4. Replying to a question concerning the adaptation of his country's internal laws to international law, he said that Senegal's practice was entirely consistent with doctrine. The Constitution provided that duly ratified international treaties in force took precedence over domestic law, which meant that the principles enshrined in the Covenant were duly applied in day-to-day practice. Citizens had the right to invoke the Covenant before the courts.

5. Mrs. Maymouna DIOP (Senegal), replying to the question whether the Senegalese Family Code was consistent with provisions of the Covenant, said that articles 152 and 153 of the Family Code, referred to in paragraph 33 of the report, were currently undergoing thorough review. The resulting draft amendments would bring the Family Code fully into line with the Covenant, leaving no room for any further doubt about the equality of the sexes within the family. On the question of female genital mutilation, she said that the latest statistics showed a downward trend in the incidence of the practice. Although such mutilation was already considered to be a form of violence under the Penal Code, there was no reason why the country's legislators should not enact a specific law making it an offence, and a proposal to that effect was at present under discussion. Parallel with that, considerable efforts were being made to disseminate information among the public and, more particularly, to enlist the medical profession's cooperation in denouncing the practice.

6. Turning to the question of abortion, she said that while it was true that the level of maternal mortality in Senegal was very high, it would be

incorrect to say that the prohibition of abortion was mainly responsible. Other factors, such as the scarcity of health services, especially in rural areas, and socio-cultural traditions which meant that women tended to give birth at home, often without assistance, and did not present themselves for prenatal examination until very late in the pregnancy, were at least as important. Clandestine abortions did exist, but not only because abortion was prohibited by law; women were inclined to keep an unwanted pregnancy secret even from their husbands. Other causes of the high maternal mortality rate were tropical diseases, genital infections - including those caused by mutilation, and the fact that Senegalese women tended to marry and become pregnant at a very young age. The problem was being taken very seriously, with health centres for mothers and children and information campaigns being set up in various parts of the country. The latest statistical information pointed to a slight decline in the maternal mortality rate.

7. Senegal had been among the first sub-Saharan countries to institute a national family planning programme with the general aim of fulfilling the objectives and strategies of the 1994 Cairo International Conference on Population and Development. It was true that contraception was still not widely practised, but there was hope that the target of 15 per cent set for 1999 would be reached thanks to activities in progress with the help of United Nations agencies. Raising the women's literacy rate and increasing the number of girls attending school were also among the most important targets. Thanks to the adoption of the Regionalization Act, rural women, who accounted for 78 per cent of the country's entire female population, were increasingly being reached by various campaigns.

8. Mr. SOW (Senegal), noting that some of his earlier remarks had apparently been misunderstood, explained that a person in police custody was certainly not kept incommunicado; his whereabouts were known and he could be visited. The legal time limit for such custody was 48 hours. Once a person was placed in police custody, the public prosecutor must be immediately informed and took all further decisions in that respect. The period of police custody could not be extended on the initiative of the police but only on the basis of a written authorization by the prosecutor. In a public emergency, or in cases involving State security, the police custody period could be doubled by order of the prosecutor. Failure on the part of the arresting officer to comply with certain regulations could entail the annulment of the proceedings as a whole.

9. Under the law in force, the presence of defence counsel was not permitted at all stages of police custody, but work on an appropriate amendment of the law was advancing rapidly and the problem would be solved shortly. Even today, however, there was nothing to prevent the arrested person from requesting, through his lawyer or a relative or friend, to be examined by a doctor. During the period of police custody, the criminal police proceeded with their inquiries and prepared a report.

10. There had clearly been a misunderstanding on the subject of pre-trial detention. What he had said was that a person accused of an offence which carried a penalty of less than two years' imprisonment could not be placed in pre-trial detention, or at any rate not for more than five days. In the case of more serious offences, a detention order accompanied by a detailed

substantiation could be issued by the judge for a period of six months, a new written explanation having to be provided every month if the pre-trial detention was extended for the purpose of completing the investigation. In the absence of such an explanation by the judge, the arrested person must be released at once.

11. Replying to a question relating to the prosecution of law enforcement officers, he said that where a police officer was accused of infringing the law, the inquiry was generally conducted by the gendarmerie.

12. Replying to questions concerning the Higher Council of the Judiciary, he said that the Council had been instituted by an Organization Act which could only be amended by a two-thirds majority of the National Assembly. The Council had eight members, including three magistrates elected by secret ballot by their peers, and was chaired by the President of the Republic, the Minister of Justice (Garde des Sceaux) acting as his deputy. However, when the Council acted as a disciplinary organ, the President of the Republic and the Minister of Justice were not among its members.

13. Replying to a question on instruction in human rights given to law enforcement officers, he said that training courses were provided at the police and gendarmerie schools, and a brochure for use in police stations was under preparation and should be ready by the end of the year.

14. The Senegalese Human Rights Committee, a national institution for the protection and promotion of human rights, had been set up by decree in 1970 but had since had its statute amended several times. The latest amendment, adopted by the National Assembly on 10 March 1997, brought the statute closely into line with General Assembly resolution 48/134 which, in turn, was essentially based on the so-called "Paris Principles". The Committee was an independent pluralist body on which all important institutions of the Republic were represented by one or two members. It also included eight NGO representatives, whose participation was, however, only consultative. The Committee had set up several working groups and was required to report to the President of the Republic every year, its report being made public.

15. Mr. Mandiogou NDIAYE (Senegal), replying to a question concerning proceedings in cases of alleged torture, said that an action could be brought by a family member who had personally suffered from the offence, especially where the victim had died. An NGO could institute proceedings but was not entitled to claim compensation as no personal injury was involved.

16. A member of the Committee had asked whether the definition of torture contained in Senegalese law was not more restrictive than that in the Convention against Torture. The national law on torture was very clearly worded and was entirely in harmony with the Convention.

17. Ms. MEDINA QUIROGA, reverting to the issue of pre-trial detention, asked whether freedom was the basic principle and pre-trial detention the exception. Were there legally established criteria that a judge was required to invoke when ordering such detention?

18. She understood that decisions regarding a wife's health, including family planning, were the husband's prerogative. Was that prerogative established by law or was it merely a cultural tradition?

19. Mrs. Maymouna DIOP (Senegal) said that the prerogative stemmed from social and cultural traditions in Senegal. Even among the 5 per cent Christian minority the husband was normally the decision-maker. However, recent awareness-building and family education campaigns had involved both husband and wife and the situation was gradually being modified. Under the influence of the regionalization policy and NGO support, attitudes were changing in both urban and rural grass-roots communities and decisions regarding reproductive health and the spacing of children were no longer left solely to the husband.

20. Mr. Mandiogou NDIAYE (Senegal) said that, with regard to pre-trial detention, freedom was the basic principle and detention the exception. To begin with, a distinction must be made between detention in police custody for investigations, which was limited to 48 hours with the possibility of extension on application to the public prosecutor, and pre-trial detention ordered by the examining magistrate before a case was brought to court. However, faced with serious economic problems and unrest immediately after independence, Senegal had introduced provisions under the Code of Criminal Procedure permitting the detention of individuals for misappropriation of public funds. The perpetrators, many of whom would otherwise have fled the country to escape justice, were served with a detention order once the prosecutor had laid an information and the magistrate was obliged to place them in detention. Those provisions were currently under challenge by the authorities, who felt that the time had come for a change.

21. Offences against State security constituted a second case in which the magistrate was obliged to issue a detention order in response to an application by the Public Prosecutor. Otherwise, decisions regarding detention were left to the discretion of the examining magistrate, who could order pre-trial detention for serious offences, to protect the perpetrator from acts of reprisal by the community or to prevent absconding, corruption of witnesses or concealment of evidence.

22. The CHAIRPERSON asked whether the criteria in such cases were laid down by law or depended entirely on the magistrates' assessment of the case.

23. Mr. Mandiogou NDIAYE (Senegal) said that there were no legally established criteria. When the public prosecutor ordered the arrest of a suspect, he usually applied to the magistrate for a detention order. The magistrate was completely free, save in the case of embezzlement of State funds or offences against State security, to issue the order or to release the suspect. Both the public prosecutor and the suspect could appeal against that decision.

24. The CHAIRPERSON invited the Senegalese delegation to respond to the questions in part II of the list of issues.

25. Mrs. Maymouna DIOP (Senegal) said, in response to question 9 of the list of issues, that although the death penalty existed de jure in Senegal, it had

never been carried out in the past 30 years. Even life sentences were unusual. In practice, therefore, Senegal was an abolitionist country. The President of the Republic was doing his utmost to secure compliance with the provisions of international treaties ratified by Senegal, which took precedence over domestic legislation. He had written to the Senegalese Human Rights Committee and the Interministerial Committee on Human Rights requesting an in-depth study of the matter, with recommendations for action to the President. She assured the Committee that, even if there was no change in legislation in the near future, the death penalty would not be carried out.

26. Mr. SOW (Senegal), replying to question 10, said that the office of the Ombudsman had been established by law in 1991. The incumbent dealt with complaints concerning the functioning of all administrative authorities, including the armed forces and paramilitary forces. He was empowered to make recommendations to the authorities to ensure that the spirit of the law was respected in the implementation of legislation, especially in cases of conflict with the individual. Where the equitable administration of the law was at issue, the Ombudsman conferred with the parties concerned to ensure a fair outcome to conflicts and to facilitate relations between the rulers and the governed. He could also make proposals to simplify and modernize administrative machinery and suggest amendments to laws and regulations. He operated independently, taking instructions from no other authority, and was appointed for a six-year non-renewable term. All natural or legal persons, even the President, could submit complaints and there was no statutory time limit on their admissibility. In some cases he arranged out-of-court settlements of disputes. In 1996, the Ombudsman had made 264 recommendations to various categories of authority, including the Ministry of Finance and the Ministry of the Interior.

27. There was no legal connection between the Senegalese Human Rights Committee and the Interministerial Committee. The latter coordinated government activities relating to human rights and prepared periodic reports for various bodies of the United Nations and the Organization of African Unity. Under the 1997 Act relating to the Senegalese Human Rights Committee, the Interministerial Committee was required to communicate its reports to the latter for comment prior to submission to the appropriate bodies.

28. Turning to question 11, he said that military service was not compulsory. On the contrary, owing to budgetary and other constraints, the armed forces were obliged to turn away many volunteers. Some professional soldiers who had been laid off and were disinclined to return to civilian life had in fact joined the rebels in the Casamance region.

29. In response to question 12, he said that there was total freedom of expression in Senegal. Press freedom had led to a burgeoning of independent newspapers and there were several private radio stations. The regulatory body was known as the High Council for Radio and Television.

30. Ms. Medina Quiroga took the Chair.

31. Mr. Amadou DIOP (Senegal), replying to question 13, said that Senegal had adopted a policy of regionalization to enable local elected representatives to assume full responsibility for their areas and to promote

administrative autonomy. In particular, such an approach allowed the local population in Casamance to legislate on land and other issues.

32. The monitoring of elections was conducted in accordance with the Electoral Organization Act. In the light of certain irregularities that had occurred during local elections, a body responsible for the supervision and control of elections had been established and operated alongside the courts.

33. Mr. SOW (Senegal) said that election monitoring by the courts took place in three stages. During the pre-electoral stage, the lower departmental courts ruled on disputes regarding the electoral rolls, usually involving mistakes or omissions. During the second stage, the Court of Appeal, working closely with the High Council for Radio and Television, ensured the smooth progress of the election campaign, ensuring, inter alia, the proper conduct of candidates. Lastly, the Court of Appeal monitored the elections themselves through its delegates or agents in the polling stations. Representatives of the Court of Appeal and departmental courts were also present with representatives of the political parties during the count and scrutinized the results. Disputes concerning the outcome were settled by the Court of Appeal or the Council of State in the case of local and national elections respectively.

34. Mr. Amadou DIOP (Senegal) said, in response to question 14, that the non-existence of what might be termed minorities in Senegal was a fact of life. The figures for the different ethnic groups failed to give a true picture of the harmony that existed in the intermingling of groups going about their daily business. Mixed marriages were widespread, not only among different ethnic groups but also between Christians and Muslims. For 20 years the country had been run by a Christian, President Senghor. The current President was a Muslim but his wife was a Christian. In Casamance there was a cemetery in which Muslims and Christians were buried together. The same spirit prevailed in the Constitution and other legislation, the only exception being the ban on ethnically-based political parties. The wisdom of that provision was borne out by recent events in Rwanda, Burundi and other African countries.

35. Mrs. Maymouna DIOP (Senegal), replying to question 15, said that articles 145 et seq. of the Code of Administrative Obligations specified the duties of the State with respect to compensation. In the Famara Kone case, under the Optional Protocol the United Nations Human Rights Committee had requested an explanation from the Senegalese Government for the protracted pre-trial detention of the party concerned. It had subsequently recommended that the victim should be paid symbolic compensation under the provisions of the Covenant. Mr. Kone had been offered CFAF 300,000, which he viewed as insufficient under the circumstances. The President of the Republic had asked the Senegalese Human Rights Committee to look into the matter and as a result Mr. Kone had been given a plot of land to build a home, the compensation had been increased to CFAF 500,000 and his medical problems were being treated free of charge by the President's personal physician.

36. Mr. Mandiogou NDIAYE (Senegal) said, in response to question 16, that a Ministry for Literacy and National Languages had been established and was responsible for publicizing human rights instruments in all national languages

throughout the community. A copy of the report had been sent to the Rassemblement pour la défense des droits de l'homme (RADDHO), which had raised the question of the compatibility of the definition of torture in Senegalese legislation with that contained in the Convention against Torture. The report had also been submitted to the Senegalese Human Rights Committee and Interministerial Committee for comments.

37. Ms. Chanet resumed the Chair.

38. Lord COLVILLE said he had initially felt that the report was lacking in detail concerning the implementation of human rights for the benefit of the population. That impression had been substantially corrected by the delegation's oral replies, which had been immensely encouraging. He found it wholly correct that the Government treated the various human rights violations committed in Casamance as criminal offences, regardless of whether the perpetrators belonged to the insurgents or the security forces. If that approach was coupled with strict compliance with the rule of law and transparency of the criminal process, the authorities would gain worldwide respect for the way in which they were handling a difficult and long-standing situation.

39. He had a further question about the role and powers of the Senegalese Human Rights Committee in the particular context of challenges to the public prosecutor. Currently, a person held in pre-trial detention did not have the right to legal advice. How could such a person challenge his detention? The best of public prosecutors could make a mistake and it was only right that individuals should be able to challenge such decisions before the courts. How could such a person do so if he had no access to free legal representation?

40. Secondly, in the case of someone killed as the result of a criminal offence who could take the place of the dead victim and require the public prosecutor to proceed with a criminal investigation? The Committee had been told that the Senegalese Human Rights Committee could be consulted and make proposals. Could it, however, deal with individual cases of the kind he had suggested and, if not, was there any other body, for example an NGO, which could require the public prosecutor to institute a criminal investigation or require the court to take cognizance of the suggestion that someone's detention was not lawful? There seemed to be a hiatus in the instances he had referred to that was not filled by any of the organizations that had been described.

41. Mr. KLEIN thanked the delegation for the information already provided in response to the issue raised by the Committee. The very fact that the Committee was discussing Senegal's fourth periodic report was an encouraging indication of the country's readiness to cooperate with it.

42. He would like, however, to raise two further issues, the first and major one relating to minorities. According to the report, and the remarks of the head of the delegation, there were no minorities in Senegal. The statement was important because it implied that, for reasons of fact, article 27 of the Covenant was not applicable to Senegal. Yet, at the previous meeting, the delegation had itself referred to the notion of minorities several times. The Senegalese Constitution recognized the existence of several national languages

and paragraph 7 of the core document enumerated various ethnic groups. Surely those constituted minorities? The delegation had also referred to efforts to preserve the cultural identity of ethnic groups. The arbitrary boundaries created by the colonial Powers and inherited by the newly independent countries of Africa, taking as they did no account of ethnic zones, were a further argument for the existence of minorities. Nevertheless, paragraph 12 of the report asserted that, on account of the cultural and social intermingling which was a feature of the national community, there were no minorities in Senegal. Clearly, there were ethnic, religious and linguistic minorities in the country in the sense used in the Covenant. By claiming that article 27 did not apply, Senegal was impeding the true answer to question 15, which probably was that it was in full compliance with the article. He would ask the delegation to reflect on that point and to explain why the existence of minorities continued to be denied.

43. In connection with article 25 of the Covenant and the participation of Senegalese citizens in political life, the delegation had mentioned newly-established procedures for the supervision of elections. It had not been made clear, however, by whom legal proceedings about alleged electoral irregularities could be instituted.

44. Mr. YALDEN thanked the delegation for the valuable further information already provided. He had two further questions, the first regarding the powers of the Ombudsman and the Senegalese Human Rights Committee. Members had been told that the powers of the Human Rights Committee were now consistent with the "Paris Principles", and some statistics had been provided with regard to complaints submitted to the Ombudsman and their outcomes. But it was still not clear how, in the event of disagreement between the Government and either the Ombudsman or the Human Rights Committee, the decisions of the latter could be enforced.

45. On the question of the existence of minorities, he associated himself with the views expressed by Mr. Klein. There were undoubtedly minorities - ethnic, linguistic and religious - in Senegal: whether they constituted a problem was a different matter. At the same time, it was difficult to conceive that there were no problems in that connection. In the case of language, for example, were services provided in all languages? Was there no ethnic group which felt itself to be poorly served in language terms? Furthermore, it had been suggested by various NGOs and commentators that the serious conflict in Casamance had an ethnic component. Although the delegation denied that the issue was one of conflict between the Wolof and the Dyola, it seemed likely that rivalry between the two ethnic groups was part of the problem.

46. In connection with question 17 about the implementation of the Covenant and the reaction of the Senegalese delegation to the Committee's concluding observations on the 1992 report, themselves an echo of the observation on the previous report that too much space was devoted to laws and regulations and not enough to what was done in practice, he noted that the same could be expected to be said about the current report. He hoped that when the fifth periodic report was drafted, greater attention would be given to what had actually been done rather than to details of laws and regulations.

47. Ms. EVATT expressed her satisfaction at the further information supplied by the delegation, in particular the updated information on the Kone case. She had two further questions. First, in connection with question 12, how far did the government monopoly of television broadcasting affect public access to news and information from a variety of sources? Secondly, with regard to the electoral authority established by the new Act adopted in 1997, what was the membership of the authority and how was its independence guaranteed?

48. Ms. MEDINA QUIROGA said that the Committee's attention had been drawn by ILO to the existence of certain provisions of the Senegalese Merchant Marine Code which might have implications for compliance with the Covenant. She would like to know, therefore, what authority determined the disciplinary measures applicable to members of the merchant marine and whether those measures were consistent with the provisions of articles 14 and 9 of the Covenant. If they were not, they were probably not consistent with article 8 either. ILO had also informed the Committee of certain problems in regard to trade unions and the right of association. For example, unions could be dissolved by administrative order, foreign workers were apparently ineligible for union office, and there was wide authority to compel the ending of strikes. She would like to know what implications those provisions had for article 22 of the Covenant. Lastly, like Ms. Evatt, she would welcome further information on the powers of the new electoral authority.

49. Mr. POCAR associated himself with the thanks addressed to the Senegalese delegation. He had one further question relating to minorities and freedom of expression. He agreed with previous speakers that there undoubtedly were minorities in Senegal. It was true that, theoretically, the equality of all citizens proclaimed in article 1 of the Constitution meant that there were no minorities, but in practice ethnic, religious and linguistic groups existed, and hence there must be minorities. He took it that the Senegalese statement really meant that there were no major problems of discrimination. He assumed that there must necessarily be some linguistic problems. Paragraph 34 of the core document (HRI/CORE/1/Add.51/Rev.1), on information and publicity, said that certain international instruments, including the International Bill of Human Rights, were widely publicized, though without being translated into local languages. The fact that they were publicized in French only must constitute a certain linguistic discrimination. Also according to the core document the Convention on the Rights of the Child had been translated into three local languages, thanks to UNICEF support. That implied the existence of still other minorities using local languages which had been treated differently. He trusted that the new Ministry for Literacy, to which the delegation had referred, would take an interest in the linguistic minorities and take their needs into account. He would also like more information on the account of the various local languages taken by the High Council for Radio and Television, which was described as regulating broadcasting in Senegal.

50. The CHAIRPERSON invited the delegation to respond to the additional questions asked by the members of the Committee.

51. Mr. Amadou DIOP (Senegal) said that there had clearly been a misunderstanding regarding the notion of minorities. Numerically, of course, there were minorities of all kinds in Senegal. His delegation had simply sought to stress the degree of intermingling in daily life and the equality

before the law ensured by the Constitution. As far as linguistic equality in the media was concerned, the High Council for Radio and Television was intended to watch over the balance. Provision was also made for diversity of views: as well as the national channel, there was provision for other private television channels and for FM radio broadcasting.

52. Mr. Mandiogou NDIAYE (Senegal) said that, in his remarks to the Committee at the previous meeting, he had wrongly equated minorities with exclusion, and since there was no discrimination in Senegal, he had reasserted the claim made in the report that there were no minorities. There were, of course, many different ethnic groups in the different geographical zones of the country that differed culturally and linguistically from each other, but there was no conflict between them. Although French was the official language according to the Constitution, the other national languages were recognized and used in the national media. The deputies to the National Assembly were able to use their local languages at its sessions.

53. His Government was well aware of the gravity of the situation in Casamance. However, all the ethnic groups were represented, both among the victims of the serious crimes being investigated by the Government and among those arrested as their perpetrators.

54. As far as the right to legal representation was concerned, under the new law a person under arrest must be officially notified of the charge against him and asked whether he wanted a lawyer. If he wanted one but could not pay, free legal assistance would be provided by the State. With regard to the institution of legal proceedings, the process could be set in motion by any person or NGO through a written or oral complaint. In the case of compensation for the victims of criminal acts, if the victim was dead his legal representative could claim on his behalf. An NGO could start an action for compensation but could not present itself as the recipient unless it had been specially appointed to act as the victim's representative.

55. As to freedom of expression, not only did the national television channel provide airtime for the various languages but there was also no restriction on international channels such as Canal Plus or CNN, or a number of independent radio stations. The existence of the government television channel did not hamper freedom of expression in any way.

56. Mr. SOW (Senegal), taking up the question who had the right to bring cases before a court in connection with elections, recalled that in general a complainant must be in some way involved in the case. Every voter had the right to bring a case regarding the conditions of his or her inclusion on the electoral rolls. Cases concerning the results of elections could be brought only by a candidate or group of candidates, political party or group of political parties that had participated in the election.

57. On Mr. Yalden's question concerning the Senegalese Human Rights Committee and the Médiateur (Ombudsman), he said they had no decision-making powers or ability to impose penalties, but they could offer opinions and recommendations for use by the authorities. If those recommendations were not respected, they could place the issue before the President of the Republic for arbitration. They could also publish their opinions and recommendations in

reports and press releases and provide information to the public and NGOs, thereby challenging the Government to explain why it had not respected certain rights.

58. On behalf of the delegation, he wished to apologize for the shortcomings in the report identified by members of the Committee. The creation of the Interministerial Committee and the reorganization of the Senegalese Human Rights Committee had resulted in many changes and created a state of flux. That situation was largely the cause of the lack of continuity in the work done on the report. In addition, the team responsible for writing the report had been replaced by the delegation now before the Committee. In future, however, with the new institutions well in place, report writing would undoubtedly conform more closely to the Committee's expectations.

59. The question raised by Ms. Medina Quiroga on the Merchant Marine Code could not be answered immediately, but he undertook to ensure that a written answer was furnished in due course.

60. Mr. Amadou DIOP (Senegal) added that in future emphasis would be placed in the reports on factual information and an analysis of actual practice. Where reports in the past had been static, his Government would in future seek to make them dynamic, in order to conform to the recommendations of the Committee.

61. On the question concerning dissolution of trade unions through administrative measures, he said the Constitution provided for freedom of association, both for trade unions and for political parties. Legislation regulated the exercise of that freedom, specifically in respect of the establishment of trade unions and associations. There were major government-affiliated and independent trade unions, as well as numerous unions in specific spheres of activity. To his knowledge, no trade union, or indeed political party, had ever been dissolved in his country. Nor had there been any instances of press censorship, as far as he was aware. He would be grateful for more specific information to enable him to follow up on those questions.

62. Ms. MEDINA QUIROGA said she would like to see in writing, before the submission of the next periodic report, the answers to the following questions. In connection with Act No. 65/40 of 1965, was it possible, under the law, to dissolve a trade union by means of administrative measures? Was article 7 of the Labour Code, which barred foreigners from executive office in a trade union, still in force? Were articles 238 and 245 of the Labour Code, giving authorities the ability to impose compulsory arbitration to end a strike, still in force? Finally, she recalled her earlier question about forced labour and suggested that it, too, should be answered in writing.

63. Mr. KLEIN said that with all due respect to the delegation, he could not accept its answers to the questions on minorities. In order to conform to the Covenant's legal conception of minority protection, it was not enough simply to say that everyone was equal before the law or that no one was subjected to discrimination or excluded. If protection of minorities was equivalent only to equality before the law, there would be no need for article 27 of the

Covenant, which called for guarantees of the enjoyment of one's own culture and of the ability to profess and practise one's own religion and use one's own language.

64. Mr. Amadou DIOP (Senegal) said that the implementation of article 27 was assured in practice, and Senegal fully espoused the spirit of that article. He undertook to answer Ms. Medina Quiroga's questions on trade unions in writing, but pointed out that in all countries there were provisions for dissolution of trade unions in specific circumstances. Respect for trade union freedom was a principle that was applied in practice: Senegal complied with its obligations as a member of ILO.

65. Mr. ZAKHIA asked for further information on whether individuals professing no religion whatsoever had a personal status in Senegal. Could a person convert to a new religion without endangering his or her life? Where no laws explicitly prohibited female genital mutilation, such mutilation, together with circumcision, tended to be seen as traditional practices. That prevented a State from implementing an effective policy regarding such acts. Administrative corruption, especially in third world countries, often hindered the enjoyment of human rights by individuals. Were there any mechanisms for public scrutiny to prevent such corruption?

66. Mr. Amadou DIOP (Senegal) said there were indeed people with no religion in Senegal, just as there were Muslims, Christians and animists. The Constitution stated that the country was a secular State, and in practice that was true. Provision was made for religious conversion, and there was a healthy cultural mix in the country.

67. Mrs. Maymouna DIOP (Senegal) recalled that she had already mentioned draft legislation intended to do away with female genital mutilation, which differed greatly from male circumcision in that it had traumatic effects on women and represented an attack on their dignity.

68. The CHAIRPERSON, summing up the discussion and offering final comments, thanked the delegation, which had done a commendable job of filling in the gaps left by a fairly pedestrian report and updating the Committee on events since the consideration of the third periodic report. A number of positive points had emerged: the prohibition of torture included in the Penal Code, application of the "Paris Principles" for national human rights institutions and the ability of individuals to bring cases directly before the Constitutional Council.

69. Perhaps the most positive development, however, was the new tone of the discussion. During the consideration of the third periodic report, the Senegalese delegation had opined that international instruments should be viewed in the light of a country's particular circumstances, but now it spoke about the primacy of international instruments and the desire to bring domestic legislation into line with them. Public awareness of human rights had increased, and women in particular were becoming active in confronting their own problems. At the same time, however, certain traditions and customs must be combated more energetically by the Government through activities in the social and health fields, action to promote women, legislation and the demonstration of a genuine will to support the work of human rights advocates.

70. The Government bore responsibility for coping even with exactions that went beyond its control. The information provided on Casamance did little to allay concern about the exercise of human rights there, where a state of emergency existed de facto, though none had been declared. Contradictory information had been provided: it was impossible to carry out inquiries on exactions committed in Casamance, it was unsafe to go there, yet at the same time consideration was being given to reopening the country to tourists and representatives of the African Commission on Human and Peoples' Rights and NGOs travelled there freely. The problems in the region must not be used as an excuse to avoid investigating any human rights violations that might have occurred, for it was the Government's responsibility to do so.

71. The delegation had been honest about the need for legislative reform to eliminate discrimination against women, including discrimination in terms of the husband's position as head of the household. Female genital mutilation, which was a particularly violent attack on the dignity of the person, was to be made punishable under draft legislation under preparation. That was laudable, but the law already provided for punishment of such acts under the offence of wilfully causing bodily harm; action by the authorities could and should be taken even now, in advance of the adoption of the new legislation.

72. It was noteworthy that when State security was involved, the duration of police custody could run to 48 hours, with a possible extension of equal duration. It was the public prosecutor who decided on such extensions, but the Committee's experience indicated that that institution could not necessarily be described as "an officer authorized by law to exercise judicial power" in the sense of article 9, paragraph 3, of the Covenant: in many countries the public prosecutor was more of a political appointee than a member of the judiciary. The delegation had stated that the decision to impose pre-trial detention was left entirely to the discretion of the judge and that there was no legislation laying down criteria on which the judge must rely in making such a decision. That was a major failing, as there was thus no check on a judge's natural desire to keep individuals in custody in order to ensure ready access to them.

73. On minorities, the Committee had explained very clearly that saying there were no problems with minorities was not at all the same as ensuring their protection and preventing discrimination. The message seemed to have got through, and the Committee would look forward to better responses on that subject during consideration of the fifth periodic report. Perusal of the Committee's general comment 23 might also help the Government to provide better input for the discussion on minorities. Finally, the power of the administration to dissolve a trade union was unfortunate.

74. With those remarks, she expressed the hope that the delegation would transmit the Committee's comments to the Government, and reminded the delegation that the fifth periodic report of Senegal would be due on 4 April 2000.

75. Mr. Amadou DIOP (Senegal) thanked all members of the Committee for the opportunity to engage in dialogue with them, a dialogue that Senegal was always ready to undertake with a view to evaluating the situation of human rights. At the same time, he appealed for understanding of the difficulties

faced by the country, whose democracy was not strong and needed nurturing. Using the Committee's recommendations, his Government would strive to become part of the movement to achieve full respect for human rights.

76. The delegation of Senegal withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

77. The CHAIRPERSON announced that a representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) would be present before the Committee's next meeting for a briefing on statelessness. The Committee should use that meeting as an opportunity to inform the representative about the kind of cooperation it would like to have with the Office in its consideration of refugee issues, and in particular, about its desire for precise information on living conditions, freedom of movement and arrangements for the granting of nationality. The Committee's objective was for UNHCR to work with it in the same way as ILO, by providing specific information relevant to the terms of the Covenant, and not general information.

78. Lord COLVILLE endorsed the Chairperson's suggestion that guidance should be given to the representative of UNHCR on how best to cooperate with the Committee.

The meeting rose at 6 p.m.